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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,541	11/02/2000	Helmut Moehwald	48998	8978
26474	7590	10/27/2004		
KEIL & WEINKAUF 1350 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			EXAMINER	WEINER, LAURA S
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 10/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/674,541	MOEHWALD ET AL.
Examiner	Art Unit	
Laura S Weiner	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 01 September 2004.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 14 and 19-28 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 19-22, 24, 26 and 28 is/are allowed.

6) Claim(s) 14, 23, 25, 27 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)                            4) Interview Summary (PTO-413)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                            Paper No(s)/Mail Date. \_\_\_\_\_.  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 9-1-04 have been fully considered but they are not persuasive. Claims 14, 23, 25, 27 remain rejected under 35 U.S.C. 102(b) as being anticipated by Barker et al. (5,643,695) because Barker et al. teaches a composition, a negative electrode having 80-95 percent by weight of the graphite particles and the balance constituted by the binder, a polymeric acrylate. The claim calls for from 1-100% by weight of a polymer or copolymer (IIa). Barker teaches having a polymer. Claim 14 remains rejected because "polytetrafluoroethylene" is spelled incorrectly.

***Claim Rejections - 35 USC § 112***

2. Claims 14, 19-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 is rejected because it is unclear what is meant by "polytetrafluoroethylene".

***Claim Rejections - 35 USC § 102***

3. Claims 14, 23, 25, 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Barker et al. (5,643,695).

Barker et al. teaches in column 2, lines 45-50 and column 3, lines 12-16, a negative electrode having an active material consisting of graphite particles having a size less than about 48 microns. Barker et al. teaches in column 12, lines 29-44, that the graphite negative electrode consists of the graphite material and a binder. The binder composition is desirably a binder/electrolyte such as polymeric acrylates which are crosslinked by radiation curing. After mixing, the resulting paste containing the binder, active material and carbon for cathode is coated onto a current collector and any polymer content is polymerized and crosslinked by heat radiation or other curing means. Barker et al. teaches in column 18, lines 55-67, that the negative electrode comprises 80-95 percent by weight of the specific graphite particles and more preferably about 90 percent by weight, the balance constituted by the binder.

#### ***Allowable Subject Matter***

4. Claims 19-22, 24, 26, 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura S Weiner whose telephone number is 571-272-1294. The examiner can normally be reached on M-F (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Laura S Weiner  
Primary Examiner  
Art Unit 1745

October 21, 2004